

REMARKS

The Final Office Action mailed June 16, 2009 has been reviewed and carefully considered. Reconsideration of the above-identified application, as herein amended and in view of the following remarks, is respectfully requested.

Claims 1-9, 20, 22-23 and 30-34 are pending in this application. Claims 1, 7 and 30 have been amended. No new matter has been added.

§102 REJECTIONS

Claims 1-9, 20, 22-23 and 30-34 were rejected under 35 U.S.C. 102(e) as being unpatentable over Day et al. (U.S. Patent No. 6,658,499, hereinafter "Day"). Applicant respectfully disagrees with the rejections but has made amendments to further clarify the distinguishing features of the present invention over the cited reference.

Namely, independent claim 1 has been amended to recite, *inter alia*:

"...wherein the local bus interface is adapted to operate at a local bus bandwidth selected from a second set of bandwidths so as to match the DSL bandwidth, and is adapted to select the first data transfer mode if said local bus bandwidth is below a specified nonzero threshold even if said second data transfer mode could be used with said local bus bandwidth, to select the second data transfer mode if said local bus bandwidth is above said threshold, and if said second data transfer mode cannot be used with said local bus bandwidth...."

Independent claim 7 has been amended to recite, *inter alia*:

"...(c) if said local bus bandwidth is below a specified nonzero threshold, selecting the first data transfer mode even if said second data transfer mode could be used with said local bus bandwidth; if said local bus bandwidth is above said threshold and said second data transfer mode can be used with said

local bus bandwidth, selecting the second data transfer mode; and, if said local bus bandwidth is above said threshold and said second data transfer mode cannot be used with said local bus bandwidth, selecting the first data transfer mode..."

Independent claim 30 has been amended to recite, *inter alia*:

"...A method for establishing a data transfer mode for a modem interconnecting a DSL line and a local bus, said local bus comprising a first and a second data transfer mode, comprising the steps of

a) selecting the first data transfer mode, said selection of the first data transfer mode being independent of the local bus bandwidth ..."

These amendments are supported by the specification, e.g., under the sections "A/First embodiment: Aggressive dynamic transfer mode and bandwidth selection" and "B/ Second embodiment: Friendly dynamic transfer mode and bandwidth selection" (page 10, line 14 to page 15, line 28.)

Day involves a system and method for ADSL USB bandwidth negotiation in which a modem is provided that, *inter alia*, can modify the USB bus transfer mode in response to the availability of isochronous bandwidth. Indeed, Col. 8, lines 3-10 recites:

"Circuitry /means 406 is configured to modify the USB bus transfer mode of the modem 400 in response to the amount of bandwidth that is determined to be available on the USB bus by the circuitry/means 406. In this regard, the circuitry/means 406 may, for example, modify the USB bus transfer mode of the modem 400 **from isochronous to bulk based on the determination that no isochronous bandwidth is available.**"

[emphasis added]

That is, Day predominantly employs isochronous USB transfer modes, and in particular, as recited in Col. 8 above, in Day the bulk transfer mode is used ONLY when it is determined that the isochronous transfer mode is NOT available.

The methodology and teachings of Day are in stark contrast to the present invention, in which both bulk and isochronous modes can be selected **independent** of each other's availability status. That is, unlike Day, in the present invention the determination of whether a bulk or isochronous transfer mode is to be used is made independent of each other's availability status, and in particular, the selection of a bulk transfer mode is NOT based on the availability of isochronous bandwidth (i.e., whether the isochronous transfer mode is not available, as taught in Day). Applicant respectfully notes that the Examiner has not addressed this difference in the "Response to Arguments."

Namely, Day fails to disclose or suggest at least wherein the local bus interface is adapted to operate at a local bus bandwidth selected from a second set of bandwidths so as to match the DSL bandwidth, and is adapted to select the first data transfer mode if said local bus bandwidth is below a specified nonzero threshold even if said second data transfer mode could be used with said local bus bandwidth, essentially as claimed in claim 1. Further, Day fails to disclose or suggest at least if said local bus bandwidth is below a specified nonzero threshold, selecting the first data transfer mode even if said second data transfer mode could be used with said local bus bandwidth; if said local bus bandwidth is above said threshold and said second data transfer mode can be used with said local bus bandwidth, selecting the second data transfer mode; and, if said local bus bandwidth is above said threshold and said second data transfer mode cannot be used with said local bus bandwidth, selecting the first data transfer mode, essentially as claimed in claim 7. Finally, Day fails to disclose or suggest at least selecting the first data transfer mode, said selection of the first data transfer mode being independent of the local bus bandwidth, essentially as claimed in claim 30.

Accordingly, claims 1, 7 and 30 are asserted to be patentable and nonobvious over Day for at least the reasons stated above. Claims 2-6, 8-9, 20, 22-23 and 31-34 depend from claims 1, 7 and 30. The dependent claims include the limitations of their respective independent claims and are therefore believed to be patentable and nonobvious for at least the reasons stated for claims 1, 7 and 30.

Accordingly, withdrawal of all the rejections and early and favorable reconsideration of this application is respectfully requested.

CONCLUSION

In view of the foregoing, Applicant respectfully requests that the rejections of the claims set forth in the Final Office Action of June 16, 2009 be withdrawn, that pending Claims 1-9, 20, 22-23 and 30-34 be allowed, and that the case proceed to early issuance of Letters patent in due course.

It is believed that no additional fees or charges are currently due. However, in the event that any additional fees or charges are required at this time in connection with the application, they may be charged to applicant's representatives Deposit Account No. 07-0832.

Respectfully submitted,

By: 
Jeffrey D. Hale
Registration No. 40,012

Date: 8-6-09

Mailing Address:

**THOMSON LICENSING LLC
PATENT OPERATIONS
P.O. BOX 5312
PRINCETON, NJ 08543-5312**